

(b) Heating equipment will not ignite combustible material;

(c) Each chimney and appliance has a spark arrestor if it uses solid fuel or is located where sparks may ignite combustible material; and

(d) All rubbish, debris, and waste go into appropriate receptacles.

[CGD 88–049, 60 FR 39796, Aug. 3, 1995, as amended by CGD 97–023, 62 FR 33363, June 19, 1997]

PART 128—SECURITY OF PASSENGER TERMINALS

Subpart A—General

Sec.

128.100 Does this part apply to me?

128.110 Definitions.

128.120 Incorporation by reference.

Subpart B—Security Program

128.200 What must my Terminal Security Plan cover?

128.210 What are the responsibilities of my terminal security officer?

128.220 What must I do to report an unlawful act and related activity?

Subpart C—Plans and Procedures for Terminal Security

128.300 What is required to be in a Terminal Security Plan?

128.305 Who must submit a Terminal Security Plan?

128.307 What is the procedure for examination?

128.309 What do I do if I need to amend my Terminal Security Plan?

128.311 What is my right of appeal?

AUTHORITY: 33 U.S.C. 1231; 49 CFR 1.46.

SOURCE: CGD 91–012, 61 FR 37654, July 18, 1996, unless otherwise noted.

EDITORIAL NOTE: For a document relating to clarification of part 128, see 61 FR 51597, Oct. 3, 1996.

Subpart A—General

§ 128.100 Does this part apply to me?

This part applies to all passenger terminals in the United States or its territories when being used for the assembling, processing, embarking, or disembarking of passengers or baggage for passenger vessels over 100 gross tons, carrying more than 12 passengers for hire; making a voyage lasting more

than 24 hours, any part of which is on the high seas. It does not apply to terminals when serving ferries that hold Coast Guard Certificates of Inspection endorsed for “Lakes, Bays, and Sounds”, and that transit international waters for only short periods of time, on frequent schedules.

§ 128.110 Definitions.

The definitions in part 120 of this chapter apply to this part, except for the definition of *You*. As used in this part:

You means the owner or operator of a passenger terminal.

[CGD 91–012, 63 FR 53591, Oct. 6, 1998]

§ 128.120 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER and must make the material available to the public. All approved material may be inspected at the U.S. Coast Guard, (G-MSE), 2100 Second Street SW., Washington, DC, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Copies may be obtained from IMO, 4 Albert Embankment, London SE1 7 SR.

(b) The materials approved for incorporation by reference in this part and the sections affected are:

INTERNATIONAL MARITIME ORGANIZATION (IMO)

4 Albert Embankment, London SE1 7SR

MSC Circular 443, Measures to Prevent Unlawful Acts Against Passengers and Crews on Board Ships September 26, 1986—128.220, 128.300

[CGD 91–012, 61 FR 37654, July 18, 1996, as amended by USCG–2002–12471, 67 FR 41332, June 18, 2002; 69 FR 18803, Apr. 9, 2004]

Subpart B—Security Program**§ 128.200 What must my Terminal Security Plan cover?**

(a) If this part applies to your passenger terminal, you must implement for that terminal a program that—

(1) Provides for the safety and security of persons and property in the terminal and aboard each passenger vessel subject to part 120 of this chapter moored at the terminal, against unlawful acts;

(2) Prevents or deters the carriage aboard any such vessel moored at the terminal of any prohibited weapon, incendiary, or explosive on or about any person or within his or her personal articles or baggage, and the carriage of any prohibited weapon, incendiary, or explosive in stowed baggage, cargo, or stores;

(3) Prevents or deters unauthorized access to any such vessel and to restricted areas in the terminal;

(4) Provides appropriate security measures for Security Levels I, II, and III that allow for increases in security when the Commandant or Captain of the Port (COTP) advises you that a threat of an unlawful act exists and may affect the terminal, a vessel, or any person aboard the vessel or terminal;

(5) Designates, by name, a security officer for the terminal;

(6) Provides for the evaluation of all security personnel of the terminal, before hiring, to determine suitability for employment; and

(7) Provides for coordination with vessel security while any passenger vessel subject to part 120 of this chapter is moored at the terminal.

(b) If this part applies to your passenger terminal, you must work with the operator of each passenger vessel subject to part 120 of this chapter, to provide security for the passengers, the terminal, and the vessel. You need not duplicate any provisions fulfilled by the vessel unless directed to by the COTP. When a provision is fulfilled by a vessel, the applicable section of the Terminal Security Plan required by § 128.300 must refer to that fact.

[CGD 91-012, 63 FR 53591, Oct. 6, 1998]

§ 128.210 What are the responsibilities of my terminal security officer?

(a) If this part applies to your passenger terminal, you must designate a security officer for the terminal.

(b) This officer must ensure that—

(1) An initial comprehensive security survey is conducted and updated;

(2) The Terminal Security Plan required by § 128.300 is implemented and maintained, and that amendments to correct its deficiencies and satisfy the security requirements of the terminal are proposed;

(3) Adequate training for personnel responsible for security is provided;

(4) Regular security inspections of the terminal are conducted;

(5) Vigilance is encouraged, as well as is general awareness of security, at the terminal;

(6) All occurrences or suspected occurrences of unlawful acts and related activities are reported under § 128.220 and records of the incident are maintained; and

(7) Coordination, for implementation of the Terminal Security Plan required by § 128.300, takes place with the vessel security officer of each vessel that embarks or disembarks passengers at the terminal.

[CGD 91-012, 63 FR 53592, Oct. 6, 1998]

§ 128.220 What must I do to report an unlawful act and related activity?

(a) Either you or the terminal security officer must report each breach of security, unlawful act, or threat of an unlawful act against the terminal, a passenger vessel subject to part 120 of this chapter destined for or moored at that terminal, or any person aboard the terminal or vessel, to the COTP, to the local office of the Federal Bureau of Investigation (FBI), and to the local police agency having jurisdiction over the terminal.

(b) Either you or the terminal security officer must file a written report of the incident using the form “Report on an Unlawful Act,” contained in IMO MSC Circular 443, as soon as possible, to the local COTP.

[CGD 91-012, 63 FR 53592, Oct. 6, 1998]

**Subpart C—Plans and Procedures
for Terminal Security**

**§ 128.300 What is required to be in a
Terminal Security Plan?**

(a) If your passenger terminal is subject to this part, you must develop and maintain, in writing, for that terminal, an appropriate Terminal Security Plan that articulates the program required by § 128.200.

(b) The Terminal Security Plan must be developed and maintained under the guidance in IMO MSC Circular 443 and must address the security of passengers aboard passenger vessels subject to part 120 of this chapter, of members of crews of such vessels, and of employees of the terminal, by establishing security measures to take for Security Levels I, II, and III, to—

(1) Deter unauthorized access to the terminal and its restricted areas and to any passenger vessel moored at the terminal;

(2) Deter the introduction of prohibited weapons, incendiaries, and explosives into the terminal and its restricted areas and onto any passenger vessel moored at the terminal;

(3) Encourage vigilance, as well as general awareness of security, at the terminal;

(4) Provide adequate security training to employees of the terminal;

(5) Coordinate responsibilities for security with the operator of each vessel that embarks or disembarks passengers at the terminal; and

(6) Provide information to employees of the terminal and to law-enforcement personnel, in case of an incident affecting security.

(c) You must amend the Terminal Security Plan to address any known deficiencies.

(d) You must restrict the distribution, disclosure, and availability of information contained in the Terminal Security Plan to those persons with an operational need to know.

[CGD 91-012, 63 FR 53592, Oct. 6, 1998]

**§ 128.305 Who must submit a Terminal
Security Plan?**

(a) The owner or operator of the vessel must submit a Terminal Security Plan whenever—

(1) There is an agreement with you that the owner or operator of the vessel will submit the Plan;

(2) The owner or operator of the vessel has exclusive use of the pier and terminal building immediately adjacent to the pier and has complete control of that area;

(3) There is no terminal; or

(4) Passengers embark or disembark but no baggage or stores are loaded or offloaded.

(b) In the situations described in paragraphs (a)(3) and (4) of this section, the owner or operator of the vessel may, with the permission of the cognizant COTP, use an annex to the vessel's security plan instead of a Terminal Security Plan.

(c) You must submit a Terminal Security Plan whenever—

(1) There is an agreement with the owner or operator of the vessel that you will submit the Plan;

(2) No security agreement exists; or

(3)(i) At least one vessel other than a passenger vessel uses the terminal;

(ii) More than one passenger vessel line uses the terminal; or

(iii) The terminal loads or offloads baggage or stores.

[CGD 91-012, 63 FR 53592, Oct. 6, 1998]

**§ 128.307 What is the procedure for
examination?**

(a) Unless a plan for your passenger terminal will be submitted by an entity other than yourself under § 128.305 or § 120.303 of this chapter, you must submit two copies of each Terminal Security Plan required by § 128.300 to the COTP for examination at least 60 days before transferring passengers to or from a vessel subject to part 120 of this chapter.

(b) If the COTP finds that the Terminal Security Plan meets the requirements of § 128.300, he or she will return a copy to you marked "Examined by the Coast Guard."

(c) If the COTP finds that the Terminal Security Plan does not meet the requirements of § 128.300, he or she will return the Plan with an explanation of why it does not meet them.

(d) No terminal subject to this part may transfer passengers to or from a passenger vessel subject to part 120 of this chapter, unless it holds either a

Coast Guard, DHS

§ 128.311

Terminal Security Plan that we have examined or a letter from the COTP stating that we are currently reviewing the Plan and that normal operations may continue until the COTP has determined whether the Plan meets the requirements of § 128.300.

[CGD 91-012, 63 FR 53592, Oct. 6, 1998]

§ 128.309 What do I do if I need to amend my Terminal Security Plan?

(a) If your passenger terminal is subject to this part, you must amend your Terminal Security Plan when directed by the COTP, and may amend it on your own initiative.

(b) You must submit each proposed amendment to the Terminal Security Plan you initiate to the COTP for review at least 30 days before the amendment is to take effect, unless he or she allows a shorter period. The COTP will examine the amendment and respond according to § 128.307.

(c) The COTP may direct you to amend your Terminal Security Plan if he or she determines that implementation of the Plan is not providing effective security. Except in an emergency,

he or she will issue you a written notice of matters to address and will allow you at least 60 days to submit proposed amendments.

(d) If there is an emergency or other circumstance that makes the procedures in paragraph (c) of this section impracticable, the COTP may give you an order to implement increases in security immediately. The order will incorporate a statement of the reasons for it.

[CGD 91-012, 63 FR 53593, Oct. 6, 1998]

§ 128.311 What is my right of appeal?

Any person directly affected by a decision or action taken by the COTP under this part, may appeal that action or decision to the cognizant District Commander according to the procedures in 46 CFR 1.03-15; the District Commander's decision on appeal may be further appealed to the Commandant according to the procedures in 46 CFR 1.03-25.

[CGD 91-012, 61 FR 37654, July 18, 1996. Redesignated by CGD 91-012, 63 FR 53592, Oct. 6, 1998]

INDEX

SUBCHAPTER L—WATERFRONT FACILITIES

EDITORIAL NOTE: This listing is provided for informational purposes only. It is compiled and kept up-to-date by the Coast Guard, Department of Homeland Security, and is revised through July 1, 2004.

Section

A

Access to waterfront facilities, and port and harbor areas, including vessels and harbor craft therein	125.15
Action by the Commandant	125.45
Action by the Commandant, after appeal	125.49
Alternatives	127.017
Appeal(s)	125.47, 127.015
Appeal, right to	128.309
Applicability	127.001, 128.100
Applications	125.21
Applications, aliens	125.25
Applications, challenges to	125.41
Applications, insufficient information	125.29
Applications, previously denied	125.57
Applications, sponsorship	125.27
Applications, United States citizens	125.230
Approval of applicant by Commandant	125.31

B

Bulk storage	127.313
--------------------	---------

C

Captain of the Port	125.05
Identification Cards	125.13
Cargoes	
Ammonium nitrate, ammonium nitrate fertilizers, fertilizer mixtures, or nitro carbo nitrate; general provisions	126.28
Cargoes of particular hazard	126.10
Dangerous	126.07
Designated dangerous cargo	126.09
Supervision and control	126.29
Challenges	125.41
Coast Guard Port Security Card	
Form of	125.11
Holders of	125.33
Outstanding applications	125.55
Period of validity	125.12
Persons eligible	125.17
Replacement of lost card	125.51
Standards	125.19
Commandant, action by the	125.45

Index

After appeal.....	125.49
Approval of applicant.....	125.31
Commandant,	125.01
Notice by	125.35
Communications systems	127.111

D

Definitions	126.3, 127.005, 128.110
Design and construction	127.101
Design and Construction	
Communications systems.....	127.1111
Electrical systems.....	127.1107
Layout and spacing of marine transfer area for LHG	127.1105
Lighting systems.....	127.1109
Piers and wharves	127.1103
Piping systems	127.1101
Transfer hoses and loading arms.....	127.1102
Warning signs.....	127.1113
District Commander.....	125.03

E

Electrical power systems.....	127.107
Equipment	
Emergency shutdown	127.205, 127.1205
Gas detectors, portable	127.203, 127.1203
Respiratory protection.....	127.1209
Sensing and alarm systems.....	127.201
Warning alarms.....	127.207, 127.1207

F

Facilities	
Arrangement of.....	126.15m
Automotive equipment.....	126.15e
Designated waterfront facility	126.05
Designated waterfront facility, conditions for.....	126.15
Designation of	126.13
Electrical wiring	126.15h
“Facility of particular hazard”, conditions for designating.....	126.16
Fire extinguishing equipment.....	126.15j
Guards	126.15a
Heating equipment and open fires	126.15i
Lighting	126.15l
Maintenance stores and supplies	126.15g
Rubbish and waste material.....	126.15f
Smoking	126.15b
Truck or other motor vehicles	126.15d
Warning alarms	126.16b
Welding or hot work	126.15c
Firefighting/Firefighting Equipment	
Dry chemical systems.....	127.609
Emergency outfits	127.605
Emergency response and rescue	127.1505
Equipment for controlling and extinguishing fires.....	127.1509
Fire equipment; general	127.601
Fire main systems	127.607
Fires.....	127.615

Subchapter L

General	127.1501
Hotwork	127.617
International shore connection	127.611, 127.1511
Portable fire extinguishers	127.603, 127.1503
Smoking	127.613
Water systems for fire protection	127.1507
Fire Protection	
Hotwork	127.1603
Other sources of ignition	127.1605
Smoking	127.1601

G

Great Lakes	125.08
-------------------	--------

H

Handling of class 1 (explosive) materials or other dangerous cargoes within or contiguous to waterfront facilities	Part 126
Hearing(s)	
Boards	125.37
Procedure	125.43
Notice by	125.39

I

Identification Cards, Captain of the Port	125.13
Identification Credentials	125.09
Identification credentials for persons requiring access to waterfront fa- cilities or vessels	Part 125
Incorporation by reference	126.5, 127.003, 128.120
Inspections of waterfront facilities	127.011
International Maritime Organization	128.120a

L

Layout and spacing of marine transfer area for LNG	127.105
Letter of intent	127.007
Letter of recommendation	127.009
Lighting systems	127.109

M

Maintenance	
General	127.401, 127.1401
Inspections	127.403, 127.1403
Records	127.409, 127.1409
Repairs	127.405, 127.1405
Testing	127.407, 127.1407

N

Notice by Commandant	125.11
----------------------------	--------

O

Operations	
Bulk storage	127.313
Declaration of Inspection	127.317
Emergency Manual	127.307, 127.1307
LNG release	127.321

Index

LNG transfer.....	127.319
Motor vehicles	127.311
Operations Manual and Emergency Manual; use of	127.309
Operations Manual	127.305, 127.1305
Qualifications and certification of persons in charge of shoreside transfer operations	127.301, 127.1301
Suspension order, compliance with	127.303
Suspension order, compliance with	127.1303
Training	127.1302
Transfer inspection, preliminary	127.315
Operations Manual and Emergency Manual; Examination procedures	127.019

P

Penalties	
Handling dangerous cargo without a permit	126.33
Handling designated dangerous cargo without a permit	126.25
Permits	
For handling dangerous cargo	126.27
For handling designated dangerous cargo	126.19
Termination of general permits	126.31
Termination or suspension of permits	126.23
Transactions	126.21
Personnel Training	
Applicability	127.501
Training, general	127.503
Piers and wharves	127.103
Plan	
Amendment	128.307
Examination procedure	128.305
General	128.300
Port Security Card, form of	125.11
Port Security Card, period of validity	125.12
Port Security Card, Replacement of lost	125.51
Primary Responsibility	126.35

R

Reporting of unlawful acts and related activities	128.220
---	---------

S

Security	
Access to the marine transfer area for LNG	127.703
Communications	127.711
On existing facilities	127.701
Personnel	127.707
Protective enclosures	127.709
Systems	127.705
Security of passenger terminals	Part 128
Separability	126.37
Standards	125.19
Suspension of transfer operations	127.013

T

Terminal security officer	128.210
---------------------------------	---------

Subchapter L

U

United States citizens	125.23
------------------------------	--------

V

Vessel credential requirements	125.53
--------------------------------------	--------

W

Warning signs	127.113
Waterfront facility	125.07
Waterfront Facilities handling Liquefied Hazardous Gas	Subpart C
Waterfront Facilities handling Liquefied Natural Gas	Subpart B
Waterfront facilities handling liquefied natural gas and liquefied hazardous gas	Part 127
Applicability	127.001
Western Rivers	125.06